

DECISION RECORD

Flanigan, Dogskin Mountain, and Granite Peak Wild Horse Gather

DOI-BLM-NV-C020-2011-0506-EA

U.S. Department of the Interior
Bureau of Land Management
Carson City District
Sierra Front Field Office
5665 Morgan Mill Road
Carson City, Nevada 89701
775-885-6000

October 2011



DECISION RECORD
for the
Flanigan, Dogskin Mountain and Granite Peak Horse Gather
Environmental Assessment
DOI-BLM-NV-C020-2011-0506-EA

BACKGROUND

The Flanigan, Dogskin Mountain and Granite Peak Herd Management Areas (HMAs) are located within the administrative jurisdiction of the Bureau of Land Management (BLM) Sierra Front Field Office (SFFO), and are located west of Pyramid Lake, in Washoe County, Nevada. The Flanigan HMA consists of approximately 17,101 acres of BLM-managed lands and 920 acres of private land. The Dogskin Mountain and Granite Peak HMAs consist entirely of BLM-managed lands, consisting of approximately 6,895 and 3,886 acres respectively.

The Proposed Action is to gather and remove excess wild horses within and outside the Flanigan, Dogskin Mountain, and Granite Peak HMAs and to implement population control measures for wild horses that are gathered and released. Wild horse populations for all HMAs currently exceed their established Appropriate Management Levels (AMLs) and BLM has determined that removal of the excess wild horses is necessary to achieve a thriving natural ecological balance. The proposed project would occur during January or February 2012 and would take approximately seven to 10 days to be completed. Based on the current population of wild horses, the Proposed Action would permanently remove approximately 87 excess wild horses from within and 157 wild horses from outside the Flanigan HMA, 12 excess wild horses from outside the Dogskin Mountain HMA, and 27 excess wild horses from outside the Granite Peak HMA.

All 2011 foals, which would be between six to nine months of age at the time of this gather, would be removed as "weaned foals." Any foal less than four months of age would be either removed or released with its mare depending on the final disposition of the mare.

Under the Proposed Action, the BLM would gather a sufficient number of wild horses to treat mares with Porcine Zona Pellucida (PZP-22) prior to returning the mares to the Flanigan HMA and to adjust the sex ratio (through release of stallions) to 60 percent male. Although the Final EA analyzed the use of PZP-22 and adjusting the sex ratio to favor stallions for all HMAs, the BLM may determine during implementation not to use these population growth controls for the Dogskin Mountain and Granite Peak HMAs due to their low AML. If BLM achieves a gather efficiency of 80 percent for the Flanigan HMA, the BLM anticipates that approximately 26 to 32 mares from the HMA would be treated with PZP 22 prior to release.

Removing the excess wild horses from the range would return the wild horse population to the lower range of AML for each HMA, and would remove all wild horses from outside the HMAs on lands that are not being managed for wild horses. Follow-up management actions could also

be implemented between 2013 and 2018 to remove any additional excess wild horses and continue population growth controls so as to maintain horse populations within AML.

Heavy and severe forage utilization by wild horses has been documented within the Flanigan and Granite Peak HMAs and wild horses also reside outside the three HMAs. At the time Congress enacted the *Wild Free-Roaming Horses and Burros Act of 1971* (WFRHBA), the estimated horse population on the HMA was 96 animals in the Flanigan HMA, and six animals in each of the Dogskin Mountain and Granite Peak HMAs. Under the WFRHBA, the Secretary of the Interior is directed to “manage wild free-roaming wild horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands.”

DECISION

Based on the analysis in *Flanigan, Dogskin Mountain and Granite Peak Final Environmental Assessment* (EA) (DOI-BLM-NV-C020-2011-0506-EA), it is my decision to implement a wild horse gather as described in Alternative A (Proposed Action) of the Final EA, effective immediately pursuant to 43 U.S.C. § 4770.3(c). This alternative will remove excess wild horses and allow BLM to manage the Flanigan, Dogskin Mountain and Granite Peak HMAs at, or near, the AML while ensuring the continued health of the herd and range.

The current populations of wild horses within the three HMAs are in excess of the numbers that the range can sustain, as evidenced by the movement of wild horses to areas outside the HMAs and by documented excessive forage use by wild horses. I have concluded that the wild horses population is above AML, is in excess of the levels necessary to achieve a thriving natural ecological balance, and a gather and removal of the excess horses found within and outside of the Flanigan, Dogskin Mountain and Granite Peak HMAs is therefore necessary to preserve and maintain a thriving and natural ecological balance and multiple-use relationship within the HMA as specified in the Carson City Field Office Consolidated Resource Management Plan (CRMP), and as directed by the WFRHBA. The gather and removal of the excess wild horses and implementation of population control measures will not compromise the long-term viability of the wild horses in the Flanigan, Dogskin Mountain and Granite Peak HMAs.

AUTHORITY

The authority for this Decision is contained in Section 1333(a) of the WFRHBA, Section 302(a) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700 as follows:

§4700.0-6 Policy

- (a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;

(c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;

(d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

§4710.4 Constraints on Management

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

§4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately...

§4740.1 Use of Motor Vehicles or Air-Craft

(a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

(b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

§4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR part 4.

(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

PUBLIC INVOLVEMENT

The Draft EA was made available for public review and comment on August 26, 2011. Letters to 49 individuals, organizations, and Tribes were mailed on August 27, 2011. The BLM notified 35 other State and federal offices of the availability of the EA through the Nevada State Clearinghouse on August 27, 2011. The BLM Nevada State Office Public Affairs Office distributed a news release on August 27, 2011 to regional media outlets. The comment period closed on September 27, 2011, although comments received in a timely manner after this date were also considered. The Draft EA was made available by hard copy at the Carson City District Office, and on the website at:

http://www.blm.gov/nv/st/en/fo/carson_city_field/blm_information/nepa.html.

Comment letters from the public, organizations and agencies were received by email, fax, and mail delivery. All comments were reviewed, considered and then categorized. Comment letters were broken down into the following categories: 18 comment letters from individuals and organizations; and comments by three agencies. No substantive revisions to the Draft EA were determined to be necessary in either the analysis or the alternatives after review of the comments. A summary of key topics contained in the comment letters can be found in Appendix A of the Final EA.

RATIONALE

Upon analyzing the impacts of the Proposed Action and following issuance of the Draft EA for public review, I have determined that implementing the Proposed Action will not have a significant impact to the human environment and that an environmental impact statement is not required. Refer to the attached Finding of No Significant Impact.

The gather is necessary to remove excess wild horses within and outside the Flanigan, Dogskin Mountain and Granite Peak HMAs to bring the wild horse population back to the established AML range, in order to maintain a thriving natural ecological balance between wild horses, wildlife, livestock, vegetation and available water as required under Section 1333(a) of the WFRHBA and Section 302(a) of the Federal Land Policy and Management Act of 1976.

The BLM is required to manage multiple uses in a manner that avoids degradation of the rangelands, and removal of the excess wild horses is necessary to protect rangeland resources from further deterioration or impacts due to the current overpopulation of wild horses that are located both within and outside the Flanigan, Dogskin Mountain and Granite Peak HMAs. The Proposed Action will achieve the wild horse management objectives identified in the CRMP.

Leaving excess wild horses on the range under the No Action Alternative would not comply with the WFRHBA or applicable regulations and Bureau policy. The No Action Alternative would allow for the continued deterioration of rangeland resources, including vegetation and soil. Wild horses would continue to relocate in increasing numbers to areas outside of the HMA boundaries in their search for water and better forage conditions as a result of the current overpopulation within the HMAs, adversely impacting public land resources not designated for

wild horse management. The No Action Alternative also increases the likelihood that emergency conditions could arise, which would necessitate an emergency gather to prevent individual animals from suffering or death due to insufficient forage or water.

APPROVAL

The Flanigan, Dogskin Mountain and Granite Peak Horse Gather Final EA is approved for implementation immediately, and the gather is approved to begin on or about January or February 2012 and take seven to 10 days to complete. This decision is effective upon issuance in accordance with Title 43 CFR 4770.3(c) because removal of excess wild horses is necessary to protect animal health and prevent further deterioration of rangeland resources.



James W. Schroeder
Acting Field Manager
Sierra Front Field Office



Date

APPEAL PROCEDURES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR Part 4. If you appeal, your appeal must also be filed with the Bureau of Land Management at the following address:

James W. Schroeder
Acting Field Manager
BLM, Sierra Front Field Office
5665 Morgan Mill Road
Carson City, NV 89701

Your appeal must be filed within thirty (30) days from receipt or issuance of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Board of Land Appeals
Dockets Attorney
801 N. Quincy Street, Suite 300
Arlington, VA 22203

A copy must also be sent to the appropriate Office of the Solicitor at the same time the original documents are filed with the above office.

U.S. Department of the Interior
Office of the Regional Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, CA 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellants success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals. Electronically filed appeals will therefore not be accepted.

